

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

In re:

MICHELE PERRETTA & ANNA M. PERRETTA,
Debtors

Chapter 11
Case No. 04-12168

**MOTION TO CONDUCT AN EXAMINATION OF
AHLBORG & SONS, INC.,
PROPOUNDED BY THE UNITED STATES TRUSTEE
UNDER FEDERAL RULE OF BANKRUPTCY PROCEDURE
2004**

NOW COMES the United States Trustee, pursuant to Fed. R. Bankr. P. 2004 and local rule 2004-1, who hereby moves for an order authorizing him to conduct an examination of the bookkeeper and/or the comptroller of Ahlborg & Sons, Inc., on Tuesday, January 18, 2005 at One o'clock p.m in the Office of the United States Trustee located at 10 Dorrance Street, Suite 910, Providence, Rhode Island 02903 (entrance to said building may be gained via 155 Westminster Street).

In support of said motion, the United States Trustee avers as follows:

1. The above named debtors, Michele Perretta and Anna M. Perretta are shareholders and/or insiders of M&M Iron Works, Inc., and M&M Iron Works, & Doors, Inc., (hereinafter M&M).
2. According to the Debtors' schedules and information provided to the U.S. Trustee, M&M has in the past, and continues to provide services to Ahlborg & Sons, Inc., for profit.
3. The undersigned has received information alleging that Ahlborg may have paid moneys directly to one or both of the Debtors for services provided by M&M.
4. During a status hearing reviewing the reorganization of the Debtors, Mario Perretta, the reported comptroller for M&M, testified that Ahlborg had recently tendered significant moneys to M&M for, *inter alia*, services performed.

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5. Rule 2004 permits inquiry and examination into the acts, conduct, property and financial condition of a Debtor, or to any matter which may affect the administration of the debtor's estate, and/or a reorganization of a debtor under chapter 11.
6. Rule 2004 also expressly authorizes compelling the attendance and production of documents of an entity regarding the acts, conduct, property and financial condition of a Debtor.
7. The undersigned avers that he has consulted with the entity to be examined, to wit: Ahlborg & Sons, Inc., via a telephone conference with attorney John K. Greim, Esq., in-house counsel for Ahlborg & Sons, Inc., regarding the examination. The undersigned further avers that the date and time of the proposed examination is mutually convenient for the parties.

WHEREFORE, the undersigned respectfully requests permission to conduct a 2004 examination of the appropriate representative of Ahlborg & Sons, Inc., and issue a subpoena *duces tacum* compelling the production of those documents described in Exhibit "A" attached hereto.

Respectfully submitted,

PHOEBE MORSE
The United States Trustee
Region 1

By: /s/ Leonard J. De Pasquale
Leonard J. DePasquale,
Assistant United States Trustee
U.S. Department of Justice
Office of the U.S. Trustee
10 Dorrance Street, Suite 910
Providence, RI 02903
TEL: (401) 528-5551
FAX: (401) 528-5163

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Dated: December 17, 2004

WITHIN TEN (10) DAYS AFTER SERVICE ANY PARTY AGAINST WHOM A "PLEADING" IS FILED, OR ANY OTHER PARTY TO THE ACTION WHO OBJECTS TO THE RELIEF SOUGHT THEREIN, SHALL SERVE AND FILE AN OBJECTION TO THAT PLEADING. IF NO OBJECTION IS FILED TO A PLEADING WITHIN THE TIME PRESCRIBED HEREIN, THE PLEADING WILL BE DEEMED UNOPPOSED AND WILL BE GRANTED, UNLESS (1) THE REQUESTED RELIEF IS PROHIBITED BY LAW; OR (2) THE REQUESTED RELIEF IS AGAINST PUBLIC POLICY; OR (3) IN THE OPINION OF THE COURT THE INTEREST OF JUSTICE REQUIRES SUA SPONTE DENIAL OF THE UNOPPOSED MOTION.

CERTIFICATION OF SERVICE

I hereby certify that on December 17, 2004 I electronically filed the attached Motion to Convert in the above captioned matter with the Clerk of the Bankruptcy Court for the District of Rhode Island using the CM/ECF System. The following participants have received notice electronically:

Edward G. Lawson at lawson@cox.net
Matthew J. McGowan at mmcgowan@smsllaw.com
Marc D. Wallick at wallicklaw@aol.com

The above motion has been served on the following individuals via First Class U.S. Mail, postage prepaid:

Maria J. Goncalves
Adler Pollock & Sheehan
2300 Financial Plaza
Providence, RI 02903

John K. Greim, Esq.
Ahlborg & Sons, Inc.,
48 Molter Street
Cranston, RI 02910

Robert N. Huseby, Sr.
Tillinghast Licht Perkins et al
Ten Weybosset Street
Providence, RI 02903

J. Russell Jackson
Jackson Law LTD
26 Valley Road Suite 203

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Middletown, RI 02842

/s/ Leonard J. De Pasquale

Exhibit "A"
To Motion for Approval of Rule 2004 Examination

Documents to be produced pursuant to Rule 9016 - Subpoena *Duces Tecum*:

Any and all records,* evidencing payments, advances, deposits, or moneys paid *for any reason* made by Ahlborg & Sons, Inc., from July 1, 2003 to January 15, 2005 to:

- A. Michele Perretta; and/or
- B. Anna Perretta; and/or
- C. M&M Iron Works, Inc., and/or
- D. M&M Iron Works & Doors, Inc., and/or
- E. Mario Perretta

*The definition of "records" includes any and all records transmitted and/or stored electronically, cancelled checks, check ledgers, financial records, reports, writings, graphic matters or other media upon which intelligence or information is recorded or placed.